

(Special Original Jurisdiction)

P R E S E N T

* * *

Counsel for the Respondents: Mr.S.I.Newton,
Mr.P.Raji Reddy

ORDER :

Heard the learned counsel for the petitioner and also the learned standing counsel for the first respondent and the counsel representing the second respondent.

The writ petition is filed to declare the order passed by the first respondent in Final Notice U.C.No.1/2005, dated 24-4-2006 as illegal, arbitrary and in violation of the principles of natural justice and consequently set aside the same and pass such other suitable orders.

The learned standing counsel representing the first respondent would submit that the representation dated 15-11-2005 said to have been made by the petitioner had been traced.

It is also stated that the main grievance of the writ petitioner is that the impugned order was made without taking into consideration the representation made by the writ petitioner dated 15-11-2005.

Sri Raj Reddy, the learned counsel representing the second respondent would submit that this action had been initiated at the instance of the second respondent and the second respondent is the real affected party.

It is stated in the affidavit filed in support of the writ petition that the petitioner is absolute owner of the property bearing door nos.5/718 and 5/719 at Santhamaidhanam street, Srikalahasti, Chittoor district and she had applied to the respondent for the approval of building plan and the first

respondent approved building plan and as per approved plan and irrespective of residing in the said building, it is also stated that when the petitioner was constructing the house in her site, the second respondent filed O.S.No.389 of 2004 on the file of the Court of Principal Junior Civil Judge, Srikalahastri seeking permanent injunction restraining the petitioner from opening the windows and ventilators both in ground, first floor on northern and western sides.

It is also stated that the learned Judge permitted her to construct the building without opening windows and ventilators on northern and western side. On appeal filed by her, the learned Senior Civil Judge, Srikalahasti stayed the order in so far as restraining her from opening the windows and ventilators on northern and western side in CMA.No.3 of 2005.

Several other factual details inclusive of C.C.No.469 of 2005 were said to have been narrated.

On overall appreciation of the facts and circumstances, in-as-much-as the impugned order was made without considering the representation dated 15-1-2005, which appears to be a representation containing several details. This court is of the considered opinion that the impugned order is liable to be set aside and accordingly the same is hereby set aside. However, the first respondent is at liberty to take into consideration all the facts and circumstances inclusive of the representation of the petitioner dated 15-11-2005 and pass appropriate orders on merits and in accordance

with law inclusive of several proceedings. It is needless to say that the second respondent also be heard in this matter, since it is stated that he is the real affected party.

Accordingly the writ petition is disposed of. No costs.

June 27th, 2006.

Is L.
J.

P . S . NARAYANA ,